

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

NORTHERN DIVISION

RICHARD S. SWART,)	
	)	Case No. 1:05-CV-156 TC
Plaintiff,)	
)	
vs.	)	ORDER ENLARGING TIME TO
	)	RESPOND TO PETITION
STATE OF UTAH,)	
)	
Defendant.)	

Based upon Respondent's Motion for Enlargement of Time, and good cause appearing therefor,

IT IS HEREBY ORDERED that Respondent may have to and including September 29, 2006, in which to respond to the Petition for Writ of Habeas Corpus.

DATED this 16th day of August, 2006.

BY THE COURT:



SAMUEL ALBA
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JORGE ALBERTO VALENZUELA-LOPEZ,
aka LUIS ALBERTO LOPEZ-ZAMORA,

Defendant.

**ORDER STRIKING TRIAL DATE
AND EXCLUDING TIME**

Case No. 1:06CR50 DAK

Honorable Dale A. Kimball

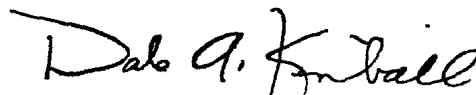
Based upon the stipulation of the parties, and good cause appearing;

IT IS HEREBY ORDERED that the trial date of August 28, 2006, is stricken. The above-entitled matter is rescheduled for a change of plea hearing on **September 14, 2006, at 3:30 p.m.** before Judge Kimball.

Pursuant to 18 U.S.C. § 3161(h), the Court finds the ends of justice served by such a continuance outweigh the best interests of the public and the defendant to a speedy trial. Accordingly, the time between the date of this order and the change of plea date set forth above is excluded from speedy trial computation.

SIGNED BY MY HAND this 15th day of August, 2006.

BY THE COURT:



HONORABLE DALE A. KIMBALL
United States District Court Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

NORTHERN DIVISION

MARTY and SUSAN FAHNCKE, et al.,)	
	)	Case No. 1:06-CV-27 PGC
Plaintiffs,)	
)	
vs.	)	ORDER GRANTING DEFENDANT
	)	LINDA RUTLEDGE'S MOTION TO
JACQUILYN M. SHASKY, et al.,	)	QUASH SERVICE OF PROCESS
)	
Defendants.)	

This matter is before the Court on Defendant Linda Rutledge's Motion to Quash Service of Process. The Court having carefully considered the memoranda submitted relative to said motion, and for good cause appearing,

IT IS HEREBY ORDERED that Defendant Linda Rutledge's Motion to Quash Service of Process is GRANTED.

IT IS FURTHER ORDERED that Plaintiffs may have forty-five (45) days from the date of this Order in which to effect service of process of the Amended Complaint upon Linda Rutledge..

DATED this 16th day of August, 2006.

BY THE COURT:



SAMUEL ALBA
United States Magistrate Judge

Thomas M. Melton (4999)
Karen L. Martinez (7914)
Securities and Exchange Commission
15 West South Temple, Suite 1800
Salt Lake City, Utah 84101
(801) 524-5796

Attorneys for the Plaintiff

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 15 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

RECEIVED

AUG 14 2006

OFFICE OF
JUDGE TENA CAMPBELL

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MERRILL SCOTT & ASSOCIATES, LTD.,
MERRILL SCOTT & ASSOCIATES, INC.,
PHOENIX OVERSEAS ADVISERS, LTD.,
PATRICK M BRODY,
DAVID E. ROSS II, and
MICHAEL G. LICOPANTIS

Defendant.

CIVIL NO: 2:02 CV 0039 C

**ORDER TO DEPOSIT
FUNDS**

Judge Tena Campbell

Magistrate Judge David Nuffer

The Securities and Exchange Commission (the "Commission"), by and through its counsel of record, having moved for the deposit of funds, no response having been received and good cause appearing therefore,

I.

IT IS HEREBY ORDERED that the funds currently held by the Commission be deposited with the United States District Clerk for the District of Utah;

II.

IT IS FURTHER ORDERED that the Clerk of Court invest all of the funds in six-month U.S. Treasury Bills at the current interest rate for those instruments, to be purchased through a commercial institution selected by the Clerk of Court, and that the Treasury Bills be held until further order of this Court; and,

III.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Court shall retain jurisdiction over this action for the purposed of implementing and carrying out the terms of all orders and decrees which may be entered herein and to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

Dated this 15 day of August 2006.



UNITED STATES DISTRICT JUDGE

Thomas M. Melton (4999)
Karen L. Martinez (7914)
Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
15 West South Temple Street
Suite 1800
Salt Lake City, UT 84101
Telephone: (801) 524-5796

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

v.

MERRILL SCOTT & ASSOCIATES, LTD.,
MERRILL SCOTT & ASSOCIATES, INC., PHOENIX
OVERSEAS ADVISERS, LTD., GIBRALTAR
PERMANENTE ASSURANCE, LTD., PATRICK M.
BRODY, DAVID E. ROSS, II and MICHAEL G.
LICOPANTIS,

Defendants.

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH
AUG 15 2006
MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

RECEIVED
AUG 14 2006
OFFICE OF
JUDGE TENA CAMPBELL

Civil Action No.2:02 CV 0039 C

**FINAL JUDGMENT AS TO
DEFENDANT DAVID E. ROSS, II**

Judge Tena Campbell

Magistrate David Nuffer

The Securities and Exchange Commission having filed a Complaint and
Defendant David E. Ross, II having entered a general appearance; consented to the
Court's jurisdiction over Defendant and the subject matter of this action; consented to
entry of this Final Judgment without admitting or denying the allegations of the
Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and
waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in

interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from aiding and abetting violations of Section 206(1) and (2) of the Advisors Act [15 U.S.C. §§ 80b-6(1) and (2)] to use the mails or any means or instrumentality of interstate commerce, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud any client or prospective client; or,
- (b) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, Defendant shall pay disgorgement of \$1.00 together with a civil penalty in the amount of

\$120,000.00 pursuant to Section 20(d) of the Securities Act, section 21(d) of the Exchange Act and Section 209(e) of the Investment Advisers Act of 1940. Defendant shall satisfy this obligation by paying \$30,000 within ten business days to the Court-appointed Receiver, together with a cover letter identifying David E. Ross as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment.

Defendant shall pay the remaining amount to the Court-appointed Receiver according to the following schedule: (1) \$7,500, within 30 days of entry of this Final Judgment; (2) \$7,500, plus post-judgment interest pursuant to 28 U.S.C. § 1961, within 60 days of the entry of this Final Judgment; (3) \$7,500, plus post-judgment interest pursuant to 28 U.S.C. § 1961, within 90 days of the entry of this Final Judgment; (4) \$7,500, plus post-judgment interest pursuant to 28 U.S.C. § 1961, within 120 days of the entry of this Final Judgment; (5) \$7,500, plus post-judgment interest pursuant to 28 U.S.C. § 1961, within 150 days of the entry of this Final Judgment; (6) \$7,500, plus post-judgment interest pursuant to 28 U.S.C. § 1961, within 180 days of the entry of this Final Judgment; (7) \$7,500, plus post-judgment interest pursuant to 28 U.S.C. § 1961, within 210 days of the entry of this Final Judgment; (8) \$7,500, plus post-judgment interest pursuant to 28 U.S.C. § 1961, within 240 days of the entry of this Final Judgment; (9) \$7,500, plus post-judgment interest pursuant to 28 U.S.C. § 1961, within 270 days of the entry of this Final Judgment; (10) \$7,500, plus post-judgment interest pursuant to 28 U.S.C. § 1961, within 300 days of the entry of this Final Judgment; (11) \$7,500, plus post-judgment interest pursuant to 28 U.S.C. § 1961, within 330 days of the entry of this Final Judgment; and (12) \$7,501, plus post-judgment interest pursuant to 28 U.S.C. § 1961, within 360 days of

the entry of this Final Judgment. Defendant shall simultaneously transmit photocopies of such payments and letters to the Commission's counsel in this action. By making these payments, Defendant relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961.

The Commission may by motion propose a plan to distribute the Fund subject to the Court's approval. Such a plan may provide that Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002.

Regardless of whether any such Fair Fund distribution is made, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant is liable for payment of a Contempt Judgment. Upon the dismissal of Defendant's appeal from the Contempt Judgment (SEC v. David Ross, No. 04-04304, 10th Cir. 2004), the Commission shall file a motion requesting that the Court set aside the monetary portion of the Contempt Judgment.

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.


VIII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: August 15 2006


UNITED STATES DISTRICT JUDGE

Approved as to Form


Richard A. Van Wagoner
Snow, Christensen & Martineau
10 Exchange Place, 11th Floor
Salt Lake City, Utah 84145
Attorney for David E. Ross

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA

Plaintiff,

vs.

MIGUEL ANGEL CARILLO

Defendant.

:
:
:
:
:
:
:
:
:
:

ORDER CLOSING CASE

Case No. 2:03-CR-1007 DAK

It appearing from the criminal docket sheet that there has been no activity in this case since August 9, 2004, and it being represented that the defendant's whereabouts are unknown,

THEREFORE, good cause appearing,

IT IS HEREBY ORDERED that the case is closed.

Dated this 16th day of August, 2006.

BY THE COURT:



Dale A. Kimball
U. S. District Judge

THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

AUG 16 2006

KAREN REEDER,)
)
Plaintiff,)
)
vs.)
)
WASATCH COUNTY SCHOOL)
DISTRICT, et al.,)
)
)
Defendants.)

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

Case No. 2:03CV226 DS

ORDER TO SHOW CAUSE


A complaint was filed initiating this action on March 4, 2003. In March and April 2005, the parties were ordered to participate in a Rule 26 attorney conference and thereafter submit an amended scheduling order. There has been no further substantial activity in the case nor have counsel filed an attorney planning meeting report with the court. The plaintiffs are hereby ordered within ten (10) days from the date of this order to show cause in writing why this case should not be dismissed for failure to prosecute.

Failure to respond to the court's order within the time allowed will result in the case being dismissed without prejudice.

SO ORDERED.

DATED this 15th day of August, 2006.

BY THE COURT:


DAVID SAM
SENIOR JUDGE
U.S. DISTRICT COURT

SNELL & WILMER L.L.P.
Alan L. Sullivan (3152)
Todd M. Shaughnessy (6651)
Amy F. Sorenson (8947)
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CRAVATH, SWAINE & MOORE LLP
Evan R. Chesler (admitted pro hac vice)
David R. Marriott (7572)
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825 Eighth Avenue
New York, New York 10019
Telephone: (212) 474-1000
Facsimile: (212) 474-3700

*Attorneys for Defendant/Counterclaim-Plaintiff
International Business Machines Corporation*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

THE SCO GROUP, INC.

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant/Counterclaim-Plaintiff.

ORDER GRANTING IBM'S EX PARTE
MOTION FOR LEAVE TO FILE
OVERLENGTH MEMORANDUM IN
OPPOSITION TO SCO'S OBJECTIONS
TO MAGISTRATE JUDGE WELLS'
ORDER OF JUNE 28, 2006

Civil No. 2:03-CV-00294 DAK

Honorable Dale A. Kimball

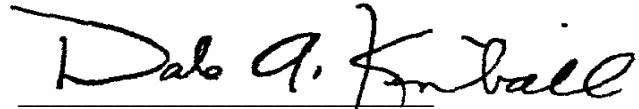
Magistrate Judge Brooke C. Wells

Based upon Defendant/Counterclaim-Plaintiff International Business Machines Corporation's ("IBM") Ex Parte Motion for Leave to File Overlength Memorandum in Opposition to SCO's Objections to Magistrate Judge Wells' Order of June 28, 2006, and for good cause appearing thereon,

IT IS HEREBY ORDERED that IBM may file its overlength Memorandum in Opposition to SCO's Objections to Magistrate Judge Wells' Order of June 28, 2006, not to exceed 55 pages of argument, exclusive of face sheet, table of contents and authorities, preliminary and fact statements, and appendices and exhibits.

DATED this 15th day of August, 2006.

BY THE COURT

A handwritten signature in black ink, reading "Dale A. Kimball". The signature is written in a cursive, flowing style. The first name "Dale" is written with a large, sweeping "D". The middle initial "A." is written in a smaller, more compact script. The last name "Kimball" is written with a large, sweeping "K" and a long, trailing "l".

U.S. District Court Judge
Dale A. Kimball

Brent O. Hatch (5715)
Mark F. James (5295)
HATCH, JAMES & DODGE
10 West Broadway, Suite 400
Salt Lake City, Utah 84101
Telephone: (801) 363-6363
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Stuart H. Singer (admitted pro hac vice)
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Attorneys for The SCO Group, Inc.

Robert Silver (admitted pro hac vice)
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

THE SCO GROUP, INC.

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Defendant/Counterclaim-Plaintiff.

ORDER GRANTING MOTION TO
WITHDRAW DANIEL P. FILOR AS
COUNSEL

Case No. 2:03CV0294DAK

Honorable Dale A. Kimball

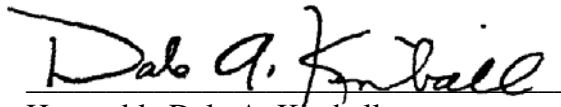
Magistrate Judge Brooke C. Wells

Based on the Motion to Withdraw Daniel P. Filor as Counsel filed by Plaintiff The SCO Group, the Court hereby ORDERS that:

Daniel P. Filor is hereby terminated as counsel for The SCO Group in the above-entitled action.

DATED this 15th day of August, 2006.

BY THE COURT:

A handwritten signature in black ink, reading "Dale A. Kimball", written over a horizontal line.

Honorable Dale A. Kimball
U.S. District Court Judge

WOOD CRAPO LLC
Mary Anne Q. Wood #3539
Kathryn O. Balmforth #5659
60 E. South Temple, Suite 500
Salt Lake City, Utah 84111
Telephone: (801) 366-6060

BRIAN C. HARRISON, P.C.
Brian C. Harrison #1388
3651 North 100 East, Suite 300
Provo, Utah 84604
Telephone: (801) 375-7700

Attorneys for Defendant

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 15 2006

MARKUS B. ZIMMER, CLERK
BY 8 DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,	)	STIPULATED PROTECTIVE ORDER
)	
Plaintiff,	)	Civil No. 2:03-CV-00846 TC
)	
ANDREA LIENDER,	)	Judge Tena Campbell
	)	Magistrate Judge Samuel Alba
Plaintiff-Intervenor,)	
)	
v.)	
)	
BODY FIRM AEROBICS, INC., d/b/a)	
GOLD'S GYM,)	
)	
Defendant.)	


On January 24, 2006, the Court ordered Defendant Body Firm to produce certain confidential financial data (the "Confidential Information"). The Confidential Information shall be produced on the following terms.

1. All Confidential Information is produced subject to this Protective Order, and shall be designated "Attorneys Eyes Only," unless and until the Court shall rule that the Confidential Information is admissible at trial.
2. All documents containing Confidential Information shall be marked "Confidential" and "Attorneys Eyes Only."
3. Confidential Information shall be disclosed only to legal counsel and their employees or contractors who are assisting them.
4. The Confidential Information shall only be used in and for this proceeding.
5. Unless and until the Court rules that the Confidential Information is admissible at trial, any court filings containing Confidential Information shall be filed in accordance with DUCivR 5-2.
6. The EEOC shall not make the Confidential Information part of any file which is or might become subject to disclosure.
6. Upon final termination of this action, including all appeals, all persons subject to the terms hereof shall (a) destroy or assemble and return to the Defendant all Confidential Information, and (b) shall destroy any outlines, summaries, abstracts, compilations, memoranda, documents and the like which constitute, embody, contain, or disclose the contents of the Confidential Information.
7. The terms of this Protective Order shall survive and remain in full force after the termination of this lawsuit and the Court shall have continuing jurisdiction over the parties, their attorneys, and all persons to whom Confidential Information has been

disclosed for the purpose of enforcing the terms of this Protective Order and/or redressing any violation thereof.

DATED this 15th day of Aug, 2006.

BY THE COURT:


Magistrate Judge Samuel Alba

APPROVED AS TO FORM:

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

Sally Shanley
Attorneys for Plaintiff

HOBBS & OLSON, L.C.

Lincoln W. Hobbs
Attorneys for Plaintiff-Intervenor

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

Proposed Order prepared by:

Sarah G. Schwartz, 9921
HOLLAND & HART LLP
60 E. South Temple, Suite 2000
Salt Lake City, Utah 84111-1031
801-595-7800

AUG 16 2006

MARKUS B. ZIMMER, CLERK
BY DEPUTY CLERK

*Attorneys for Richard D. Clayton, as Receiver for
NuWay Holding, Inc., et al.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

DAVID M. WOLFSON; NUWAY
HOLDING, INC., a Nevada corporation;
MOMENTOUS GROUP, LLC, a Utah limited
liability company; LEEWARD
CONSULTING GROUP, LLC, a Utah limited
liability company; SUKUMO LIMITED, a
company incorporated in the British Virgin
Islands (a.k.a SUKUMO GROUP, LTD.,
FUJIWARA GROUP, FIRST CHARTERED
CAPITAL CORPORATION, FIRST
COLONIAL TRUST, FIRST CHINA
CAPITAL AND INTERNATIONAL
INVESTMENT HOLDING); MICHAEL
SYDNEY NEWMAN (a.k.a MARCUS
WISEMAN); STEM GENETICS, INC., A
Utah corporation; HOWARD H.
ROBERTSON; GINO CARLUCCI; G & G
CAPITAL, LLC, an Arizona and Utah limited
liability company; F10 OIL AND GAS

)
)
) **ORDER GRANTING HEARING TO**
) **CONFIRM THE BOX ELDER**
) **TRANSACTION, CONFIRMING**
) **APPOINTMENT OF ONE APPRAISER,**
) **AND PROVIDING FOR**
) **EXPANDED NOTICE**

Civil No. 2:03CV-00914

Judge Dale A. Kimball
Magistrate David O. Nuffer

PROPERTIES, INC.; JON H. MARPLE;)
 MARY E. BLAKE; JON R. MARPLE;)
 GRATEFUL INTERNET ASSOCIATES,)
 L.L.C., a Colorado limited liability company;)
 DIVERSIFIED FINANCIAL RESOURCES)
 CORPORATION, a Delaware corporation;)
 JOHN CHAPMAN; VALESC HOLDINGS,)
 INC., a New Jersey corporation; JEREMY D.)
 KRAUS; SAMUEL COHEN; NCI)
 HOLDINGS, INC., a Nevada corporation)
 Defendants.)

Based upon the submissions of the Receiver, Richard D. Clayton, and being otherwise informed, the Court HEREBY ORDERS:

1. That a hearing will be held on August 29, 2006 at 3:00 p.m. before this Court in order to consider, and confirm if appropriate, the proposed private sale of the approximately 6,407.25 acres of land and the transfer of the Receivership's rights, if any, to approximately 1,974.75 acres of land located in Box Elder County, Utah ("Box Elder Transaction"). True and correct copies of the legal descriptions for the property involved in the Box Elder Transaction are attached as Exhibits A and B;
2. That Craig Warren be approved as the court-appointed appraiser to assist the Court and the Receiver in evaluating the proposed Box Elder Transaction;
3. That the three appraiser provision of 28 U.S.C. § 2001 is waived; and
4. That the Receiver shall publish notice in Salt Lake City, Utah; Ogden, Utah; Tremonton, Utah; and Brigham City, Utah.

DATED this 16th day of August 2006.

UNITED STATES DISTRICT COURT

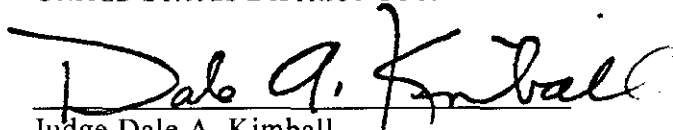

 Judge Dale A. Kimball

Exhibit A

EXHIBIT A

Legal Description of Box Elder County Property Controlled by the Receiver

Section 9, Township 5 North, Range 18 West, Salt Lake Base and Meridian. Less and Excepting therefrom the West Half of said Section 9.

All of Section 1, Township 6 North, Range 17 West, Salt Lake Base and Meridian. Less and Excepting therefrom the Northeast Quarter and the Southeast Quarter of said Section 1.

The Northeast Quarter and South Half of Section 9, Township 6 North, Range 18 West, Salt Lake Base and Meridian.

All of Section 18, Township 7 North, Range 17 West, Salt Lake Base and Meridian.

All of Section 19, Township 7 North, Range 17 West, Salt Lake Base and Meridian.

All of Section 28, Township 7 North, Range 17 West, Salt Lake Base and Meridian.

All of Section 30, Township 7 North, Range 17 West, Salt Lake Base and Meridian.

All of Section 6, Township 7 North, Range 18 West, Salt Lake Base and Meridian.

All of Section 24, Township 7 North, Range 18 West, Salt Lake Base and Meridian.

All of Section 33, Township 7 North, Range 18 West, Salt Lake Base and Meridian. Less and Excepting therefrom the Northeast Quarter and the Southeast Quarter of said Section 33.

The North Half of the Northwest Quarter, the Southwest Quarter of the Northwest Quarter, the North Half of the Southwest Quarter, the Northeast Quarter of the Northeast Quarter, the Northwest Quarter of the Southeast Quarter, the Southeast Quarter of the Southeast Quarter of Section 1, Township 7 North, Range 19 West, Salt Lake Base and Meridian. Less and Excepting therefrom the North Half of the Southwest Quarter of said Section 1.

The Northeast Quarter of the Northwest Quarter, the Southwest Quarter of the Northwest Quarter, the Northwest Quarter of the Southwest Quarter, the Southeast Quarter of the Southeast Quarter, the Southeast Quarter of the Southwest Quarter of Section 11, Township 7 North, Range 19 West, Salt Lake Base and Meridian.

The South Half of the South Half of the Northeast Quarter of the Northeast Quarter of Section 35, Township 6 North, Range 18 West, Salt Lake Base and Meridian.

The Northeast Quarter of the Northeast Quarter, the South Half of the Southwest Quarter of the Northeast Quarter, the Southeast Quarter of the Northeast Quarter of Section 32, Township 7 North, Range 17 West, Salt Lake Base and Meridian.

The North Half of the Northeast Quarter of Section 7, Township 7 North, Range 18 West, Salt Lake Base and Meridian.

The Southwest Quarter of the Northwest Quarter of Section 7, Township 7 North, Range 18 West, Salt Lake Base and Meridian.

The Southeast Quarter of the Southeast Quarter of Section 7, Township 7 North, Range 18 West, Salt Lake Base and Meridian.

The Southwest Quarter of the Southeast Quarter of Section 36, Township 4 North, Range 18 West, Salt Lake Base and Meridian.

The North Half, the North Half of the South Half, the Southwest Quarter of the Southwest Quarter, the Southeast Quarter of the Southeast Quarter of Section 11, Township 5 North, Range 18 West, Salt Lake Base and Meridian.

The Northwest Quarter of Section 19, Township 8 North, Range 18 West, Salt Lake Base and Meridian.

The East Half, the South Half of the Southwest Quarter of Section 31, Township 8 North, Range 18 West, Salt Lake Base and Meridian. Less and Excepting therefrom a railroad right of way.

The East Half of the Northwest Quarter, the East Half of the Northeast Quarter, the Northeast Quarter of the Southeast Quarter, the Southwest Quarter of the Northeast Quarter, the South Half of the Northwest Quarter of the Northeast Quarter, the South Half of the North Half of the Northwest Quarter of the Northeast Quarter of

Section 21, Township 11 North, Range 14 West, Salt Lake Base
and Meridian.

located in Box Elder County, Utah.

Exhibit B

EXHIBIT B

**Legal Description of Box Elder County Property
in which Receiver May Have Rights**

All of Section 36, Township 7 North, Range 17 West, Salt Lake Base and Meridian.

Lots 1, 2, 3, 4, the South Half of the North Half of the South Half of Section 2, Township 8 North, Range 14 West, Salt Lake Base and Meridian.

All of Section 16, Township 8 North, Range 14 West, Salt Lake Base and Meridian.

located in Box Elder County, Utah.

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES ANTHONY GREENE,

Defendant.

ORDER GRANTING CREDIT FOR
TIME SERVED

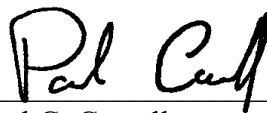
Case No. 2:04-CR-00821 PGC

On May 19, 2005, the court sentenced defendant Charles Anthony Greene to thirty-seven months in the custody of the Bureau of Prisons to run concurrently with his sentence. Mr. Greene filed a motion to clarify his sentence description [#22], and the government responded to that motion.

The court GRANTS Mr. Greene's motion to clarify his sentence [#22]. Based on the representations by the government and a view of the docket, the court GRANTS Mr. Greene credit for time served since beginning federal custody on January 20, 2005.

DATED this 14th day of August, 2006.

BY THE COURT:



Paul G. Cassell
United States District Judge

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 15 2006

MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

Barry N. Johnson (6255)
Shane L. Keppner (9183)
Attorneys for Tom Myers
BENNETT TUELLER JOHNSON & DEERE
3865 South Wasatch Blvd., Suite 300
Salt Lake City, Utah 84109
Telephone: (801) 272-5600
Facsimile: (801) 278-1541

James L. Martin (*Admitted Pro Hac Vice*)
Tyler J. Anderson (*Admitted Pro Hac Vice*)
Attorneys for Global Nutrifooods, LLC and Brad Barnhorn
MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

DOMINION NUTRITION, INC., Plaintiff, vs. TOM MYERS, Defendant.	Case No. 2:04-CV-1089 DB ORDER GRANTING TOM MYERS AND GLOBAL NUTRIFOODS, LLC LEAVE TO FILE AN OVERLENGTH MEMORANDUM Judge Dee V. Benson [Filed Electronically]
--	--

Based on Tom Myers' ("Myers") and Global Nutrifoods, LLC's ("GNF") *ex parte* motion for leave to file overlength memorandum and good cause appearing therefor,

IT IS HEREBY ORDERED that Myers and GNF may file their joint Memorandum of Points and Authorities in Opposition to Dominion Nutrition's and Achs' Motion For Summary Judgment pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6) and 9(b), not to exceed 35 pages in argument, exclusive of face sheet, table of contents, table of authorities, statement of issues and facts, and exhibits.

~~End of Order~~

This 15th day of August

Dee Benson

Judge Dee Benson

IN THE UNITED STATES FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA

Plaintiff,

vs.

STEPHEN BRADLEY LEMASTER and
DEBORAH LYNN LEMASTER

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ORDER CLOSING CASE

Case No. 2:05-CR-98 DAK

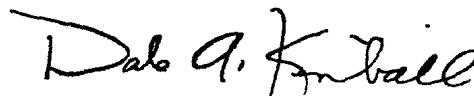
It appearing from the criminal docket sheet that there has been no activity in this case since October 27, 2005 when the defendants absconded, and it being represented that the defendants' whereabouts are unknown,

THEREFORE, good cause appearing,

IT IS HEREBY ORDERED that the case is closed.

Dated this 15th day of August, 2006.

BY THE COURT:



Dale A. Kimball
U. S. District Judge

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

SHARON PRESTON (7960)
Attorney for Defendant
716 East 4500 South, Suite N142
Salt Lake City, UT 84107
Telephone (801) 269-9541
Fax: (801) 269-9581

AUG 15 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

EFREN CASTRO-BAJO,

Defendant.

)
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) ORDER
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Case No. 2:05-CR-268

Judge Dale Kimball

Based on Defendant's motion and consent of the government, the trial in this matter is continued and the trial will commence on the 6th day of November, 2006, at 8:30 a.m. The time between the filing of the Defendant's motion and the trial date is excluded from the provisions of the Speedy Trial Act. The court concludes that the interest served by this continuance outweigh the interests of the public and the Defendant in speedy trial.

IT IS ORDERED this 15th day of August, 2006.

BY THE COURT:

Dale A. Kimball

JUDGE DALE KIMBALL

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE SANCHEZ-ESPINOZA and DANIEL
ARAUJO-VALENZUELA,

Defendants.

**ORDER GRANTING EXTENSION OF
TIME TO FILE DECLARATION**

Case No. 2:05 CR 310 DAK

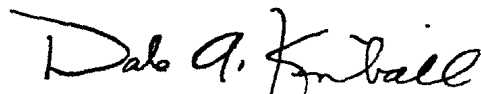
Honorable Dale A. Kimball

Based upon motion of Defendant, Daniel Araujo-Valenzuela, and with good cause appearing;
IT IS HEREBY ORDERED that Defendant is granted an extension of time until August 18,
2006, to file a declaration by defendant.

IT IS FURTHER ORDERED that the Government shall file its response by August 25, 2006.

DATED this 14th day of August, 2006.

BY THE COURT:



HONORABLE DALE A. KIMBALL
United States District Court Judge

MINUTES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

JUDGE: Hon. J. Thomas Greene

COURT REPORTER: Mindi Powers

COURTROOM DEPUTY: Michael R. Weiler

INTERPRETER: None

CASE NO. 5-CR-642 JTG

USA v. Roger Arlo Livingston

Approved By: 

APPEARANCE OF COUNSEL

Pla Barbara Bearnson, AUSA

Dft Mark Moffatt

USPO Meggan Van Sciver

DATE: August 14, 2006, 10:53 AM

MATTER SET: Change of Plea

(25 mins)

DOCKET ENTRY:

Dft pres. Crt executes order authorizing psychosexual evaluation. Dft sworn & testifies. Rights, max/min penalties explained. Stmt in Adv of POG signed & filed with the Crt. Ctn 2 of the Indictment read. Dft pleads guilty to Ctn 2 of the Indictment. Govt will move to dismiss Ctns 1 & 3 of the Indictment at the time of sentencing. Crt finds that there is a factual basis for the charge & that the plea is freely & voluntarily given. Crt adjudges the dft guilty & orders presentence report. Crt schedules:

- Sentencing set 12/4/2006, at 10:00 AM.

Dft to remain on conditions of release.

SHARON PRESTON (7960)
Attorney for Defendant
716 East 4500 South, Suite N142
Salt Lake City, UT 84107
Telephone (801) 269-9541
Fax: (801) 269-9581

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 15 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE ALBERTO GASTELUM,

Defendant.

)
)
) **ORDER TO CONTINUE**
) **TRIAL**

) **Case No. 2:05-CR-825**
)
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Based on Defendant motion, consent of the Government and good cause appearing
therefore; IT IS HEREBY ORDERED: that the trial in this matter is continue and will
commence on the 28th day of November, 2006, at 8:30 a.m.

DATED this 15th day of August, 2006.

BY THE COURT:

Dale A. Kimball

JUDGE DALE A. KIMBALL
U.S. DISTRICT COURT JUDGE

AUG 16 2006
AUG 16 2006

MARKUS B. ZIMMER, CLERK
BY ~~MARKUS B. ZIMMER, CLERK~~
~~DEPUTY CLERK~~

IN THE UNITED STATES JUDICIAL DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

IRVING FREIBERG and HARVEY L.
CARMICHAEL a/k/a HARVEY L.
CARNICLE,

Defendants.

**ORDER GRANTING EXTENSION OF
TIME**

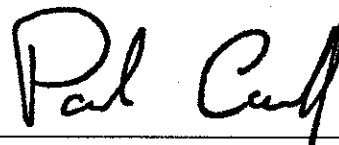
Case No. 2:05CV00233 PGC

Based on good cause appearing, the court changes the date on which dispositive motions are due and grants the parties additional time to complete discovery. The cutoff for discovery will be October 30, 2006, and the parties shall file any dispositive motions on or before November 15, 2006.

SO ORDERED.

Dated this 15th day of August, 2006.

BY THE COURT



Paul G. Cassell
United States District Judge

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 15 2006

MARKUS B. ZIMMER, CLERK
BY DEPUTY CLERK

RECEIVED

AUG 14 2006

OFFICE OF
JUDGE TENA CAMPBELL

BERMAN & SAVAGE
E. Scott Savage (2865)
Casey K. McGarvey (4882)
Patrick E. Johnson (10771)
170 South Main Street, Suite 500
Salt Lake City, Utah 84101
Telephone: (801) 328-2200

Attorneys for Defendant and Third-Party Plaintiff,
Union Pacific Railroad Company

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

UNION PACIFIC RAILROAD
COMPANY,

Defendant.

UNION PACIFIC RAILROAD
COMPANY,

Third-Party Plaintiff,

vs.

PANDROL JACKSON and HARSCO
COMPANY,

Third-Party Defendants.

ORDER GRANTING STIPULATED
MOTION FOR EXTENSION OF TIME
TO RESPOND TO THIRD-PARTY
DEFENDANT PANDROL JACKSON &
HARSCO COMPANY'S MOTION FOR
SUMMARY JUDGMENT

Case No. 2:05-CV-00545 TC

Honorable Tena Campbell

Having fully considered third-party plaintiff's and third-party defendant's Stipulation and
Motion for Extension of Time to Respond to Third-Party Defendant Pandrol Jackson & Harsco

Company's Motion for Summary Judgment, and for good cause shown, it is hereby

ORDERED that third-party plaintiff shall have until August 31, 2006 to respond to third-party defendant Pandrol Jackson & Harsco Company's Motion for Summary Judgment.

DATED this 15 day of August, 2006.

BY THE COURT

By Tena Campbell
Tena Campbell
U.S. District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of August, 2006, I caused a true and correct copy of the within and foregoing [PROPOSED] ORDER GRANTING STIPULATED MOTION FOR EXTENSION OF TIME TO RESPOND TO THIRD-PARTY DEFENDANT PANDROL JACKSON & HARSCO COMPANY'S MOTION FOR SUMMARY JUDGMENT to be served electronically to the following:

Stephen J. Trayner
H. Scott Jacobson
STRONG & HANNI
3 Triad Center, Suite 500
Salt Lake City, Utah 84180

/s/ Patrick E. Johnson

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

2000 Ford Excursion,
VIN 1FMNU41S3YEA63962,

Defendant.

CASE: # 2:05CV00865

FINAL JUDGMENT AND
ORDER OF FORFEITURE

JUDGE: DALE A. KIMBALL

Plaintiff has filed a Motion for a Final Judgment and Order of Forfeiture and accompanying Memorandum in the above-captioned case against all persons and entities including Nicholas Mendoza with respect to the above-captioned defendant property.

Based on the government's Motion and Memorandum, it appears that copies of the Complaint for Forfeiture *In Rem* were served on all known interested parties. Notice of Complaint for Forfeiture *In Rem* has appeared in a newspaper of general circulation within the District of Utah, and no timely responsive pleading has been filed in this action by any person or entity including Nicholas Mendoza.

Having considered the Motion and Memorandum, and based on the records of the Court, the Court finds that:

1. Process was duly issued in this case and served upon all known interested parties.
2. Public Notice of the Complaint for Forfeiture *In Rem* appeared in a newspaper of general circulation.

3. No person or entity has filed a timely claim, answer, or other responsive pleading in defense of this action.

4. The Untimely Claim of Nicholas Mendoza has been dismissed and the Court has directed that Judgment be entered.

Based on the above findings, and the Court being otherwise fully advised in the matter:

IT IS HEREBY ORDERED AND ADJUDGED that:

Final Judgment and Order of Forfeiture be entered and the same is entered in the above-captioned case against all persons and entities including Nicholas Mendoza with respect to the defendant property identified as:

- 2000 Ford Excursion, VIN 1FMNU41S3YEA63962

The asset identified above is forfeited to the United States, with all right, title, and interest vested in the United States, and any interest of any person or entity in said assets is forever barred.

Dated this 16th day of August, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Dale A. Kimball", written over a horizontal line.

DALE A. KIMBALL, Judge
United States District Court

THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

DAVID H. MISHLER,	)	Case No. 2:05CV00877DS
Plaintiff,)	
vs.	)	MEMORANDUM DECISION
JO ANNE B. BARNHART,)	
Commissioner of Social Security)	
Defendant.)	

This matter is before the court on plaintiff David Mishler's brief in support of petition for review of the decision of defendant Jo Anne B. Barnhart, Commissioner of Social Security, denying Plaintiff's application for Disability Insurance Benefits, pursuant to 42 U.S.C. § 405(g) and 1383(c)(3). The court has also received and reviewed Defendant's answer brief supporting the Commissioner's decision and is prepared to issue the following decision.

I. ADMINISTRATIVE PROCEEDINGS

Plaintiff applied for Disability Insurance Benefits on December 4, 2002, alleging disability since April 10, 2002, as a result of chronic back pain and swelling in the legs and feet. His claims were initially denied on January 27, 2003 and upon reconsideration on June 12, 2003. Plaintiff filed a request for a hearing before an administrative law judge, which was held on June 10, 2004. Administrative law judge Rand G. Farrer (hereinafter "ALJ") issued a decision, dated January 26, 2005, denying Plaintiff's claims and concluding that while Plaintiff suffers from a

severe impairment, he retains a residual functional capacity that allows him to perform a range of sedentary work activities. The ALJ further determined that Plaintiff's past relevant work as a sales manager was not precluded by his residual functional capacity, and that these jobs are readily available in the national economy. Because Plaintiff was able to perform his past relevant work, the ALJ determined that Plaintiff has not, as of the date of his decision, suffered from a disability as defined by the Social Security Act.

On March 16, 2005, Plaintiff filed a request for review by the Appeals Council. The Council denied his request on August 26, 2005, and thus the ALJ's decision of January 26, 2005 became the "final decision" of the Commissioner pursuant to 42 U.S.C. § 505(g).

II. STANDARD OF REVIEW

The court's review of the Commissioner's decision is limited. The court may not re-weigh the evidence or substitute its judgment for that of the ALJ. See Hamilton v. Sec'y of Health & Human Serv., 961 F.2d 1495, 1498 (10th Cir. 1992). However, the court should examine the record carefully and review it in its entirety. See Musgrave v. Sullivan, 966 F.2d 1371, 1374 (10th Cir. 1992). The Commissioner's determination will be upheld if it is supported by "substantial evidence" and if correct legal standards were applied by the ALJ. Castellano v. Sec'y of Health & Human Servs., 26 F.3d 1027, 1028 (10th Cir. 1992); Hamilton v. Sec'y of Health & Human Servs., 961 F.2d 1495, 1497-98 (10th Cir. 1992); 42 U.S.C. § 405(g). Substantial evidence is defined as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Richardson v. Perales, 402 U.S. 389 (1971). However, evidence is not substantial if it is overwhelmed by other evidence or if it constitutes mere

conclusion. O'Dell v. Shalala, 44 F.3d 855, 858 (10th Cir. 1994). The court must review the record as a whole to determine if substantial evidence supports the Commissioner's final decision. Washington v. Shalala, 37 F.3d 1437, 1439 (10th Cir. 1994). However, where evidence in the record can support either the Commissioner's final decision or an award of previously denied benefits, the final decision of the agency must be affirmed. See Ellison v. Sullivan, 929 F.2d 534, 536 (10th Cir. 1990). The final agency decision is also reversible if the agency failed to apply the correct legal standards. Glass v. Shalala, 43 F.3d 1392, 1395 (10th Cir. 1994).

A disability is defined in the Social Security Act as “the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.” 42 U.S.C. § 423(d)(1)(A) (Supp. 2002). The Act goes on to state that a benefit applicant shall only be found disabled where “his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work.” 42 U.S.C. § 423(d)(2)(A) (Supp. 2002).

The Commissioner has established a five-step sequential evaluation process for determining whether a person is “disabled” for the purpose of awarding disability benefits. See 20 C.F.R. §§ 404.1520, 416.920 (2001); Gossett v. Bowen, 862 F.2d 802, 805 (10th Cir. 1988). The first step in this process is simply to determine if the applicant is presently working and if that work constitutes “substantial gainful employment.” If the claimant is gainfully employed, she is not disabled, regardless of her medical condition, age, education, and work experience and

her application will be denied. If the applicant is not gainfully employed, the evaluation will move on to the second step.

The second step is to determine if the claimant has an impairment or combination of impairments that is severe enough to limit his or her ability to perform work activities. This step of the evaluation is based on medical factors alone. If the claimant is found not to have a severe impairment, the claim is denied and the evaluation comes to an end. If it is determined that the claimant does suffer from a “severe impairment,” the evaluation will move to the third step.

The third step of the evaluation requires that the impairment was of sufficient duration and that it is listed in Appendix I of subpart P, 20 C.F.R. § 404. If the impairment is listed, the claimant is presumed disabled and her claim is approved without further evaluation. Alternately, if the impairment is not listed, but is determined to be equal to a listed impairment, the claim will be approved. If the impairment is not listed and not equal to a listed impairment, the evaluation process must move on to a fourth step.

The fourth step of the process requires the claimant’s past relevant work to be analyzed. If the applicant’s impairment does not prevent the performance of past relevant work, the claim will be denied. However, if the impairment is so severe that the applicant is unable to perform past relevant work, the analysis moves on to the final step.

In the fifth and final step of the evaluation process, the claimant will be deemed disabled and her claim will be granted unless it can be established that the claimant retains the capacity to perform an alternate work activity and that this specific job exists in the national economy. At this point, if the Commissioner does not make the required showing, an award of disability benefits is proper. Nielson v. Sullivan, 992 F.2d 118, 1122 (10th Cir. 1993). “If a determination

can be made at any of the steps that a claimant is or is not disabled, evaluation under a subsequent step is not necessary.” Williams v. Bowen, 844 F.2d 748, 750 (10th Cir. 1988). In steps one through four, the burden of proof lies with the claimant. Following step four, however, the burden shifts to the Commissioner. See Sorenson v. Bowen, 888 F.2d 706, 710 (10th Cir. 1989) (citing Ray v. Bowen, 865 F.2d 222, 224 (10th Cir. 1989)).

III. DISCUSSION

A. The ALJ’s Decision

At step one, the ALJ must determine if the claimant is engaged in substantial gainful employment. Substantial gainful work is defined at 20 C.F.R. §§ 404.1572 and 416.972 as work that requires significant mental or physical activities that is performed for pay or profit. The ALJ found that Plaintiff had not performed substantial gainful activity since the onset of his disability.

At step two, the ALJ must determine if the claimant’s impairment or combination of impairments is severe. A claimant’s impairment will be determined to be severe where it limits the claimant’s physical or mental ability to perform basic work activities. 20 C.F.R. §§ 404.1521, 416.921. The ALJ concluded that Plaintiff has severe impairments in relation to right leg pain. There were also several references to drug abuse in the medical record but the ALJ did not find that the drug abuse rose to the level of a severe impairment.

The ALJ determined, at the third step, that claimant’s severe impairments did not meet or medically equal any of the impairments listed in Appendix 1 of Subpart P, specifically listings 1.00, 4.04, 4.00, 5.00, and 12.00.

In regards to step four, the ALJ determined that Plaintiff's severe impairments limit him to performing a range of light work activities. Specifically, the ALJ concluded that Plaintiff could perform his past relevant work as a sales manager as that work is generally performed in the national economy. Having found that Plaintiff was able to perform past relevant work, the ALJ denied his claim and did not proceed to step five.

B. The Treating Physician Rule

Plaintiff alleges that the ALJ did not follow the established process for determining the weight to be assigned to treating physician opinions and failed to specifically identify the weight given to the treating physician opinions. The treating physician's opinion is only controlling where "it is well supported by clinical and laboratory diagnostic techniques and [] it is not inconsistent with other substantial evidence in the record." Bean v. Chater, 77 F.3d 1210, 1214 (10th Cir. 1995).

Drs. Roberts and Johnson were Plaintiff's treating physicians. Both physicians stated that Plaintiff suffered from severe symptoms that limited the work Plaintiff could perform. These limitations included that Plaintiff could never stoop or crouch during an 8-hour day, that Plaintiff could only use his hands, fingers, and arms for 5-10% of an 8-hour day, and that Plaintiff would need to lie down for eight hours a day. However, the ALJ noted that there is no reasonable medical basis for these diagnoses. Regarding Plaintiff's claim of incapacitating back pain, the ALJ refers to various MRIs and X-rays that showed that Plaintiff only suffered "mild" bulging of the disc material and "very mild" stenosis. Thus the ALJ cites specific medical evidence to refute Plaintiff's claim. A treating physician's opinion, which finds a claimant to be disabled, may be

rejected where it is unsupported by objective medical findings. Castellano v. Secretary of Health & Human Servs., 26 F.3d 1027, 1029 (10th Cir. 1992).

The ALJ specifically states in his opinion that the “conclusory assessments by Drs. Roberts and Johnson are without foundation in the objective acceptable medical evidence of the record.” (Tr. 24). A finding of disability is unsupported by objective medical evidence and is inconsistent with substantial evidence in the record. Accordingly, there was no error on the part of the ALJ in rejecting the opinion of Plaintiff’s primary care physician.

C. The ALJ’s Credibility Findings

The ALJ partially based his decision to deny disability benefits to Plaintiff on Plaintiff’s credibility. “Credibility determinations are peculiarly the province of the finder of fact, and we will not upset such determinations when supported by substantial evidence.” Kepler v. Chater, 68 F.3d 387, 391 (10th Cir. 1995)(quoting Diaz v. Secretary of Health & Human Servs., 898 F.2d 774, 777 (10th Cir. 1990)). However, if the ALJ disbelieves Plaintiff’s allegations, he must explain what evidence led him to conclude the claimant’s allegations were not credible. Kepler v. Chater, 68 F.3d 387, 391 (10th Cir. 1995). The ALJ found that Plaintiff’s own assessments of his daily activities were inconsistent with the treating physicians’ assessments and that “claimant’s allegations regarding the severity of his impairments are only partially credible. Evidence exists to suggest that the claimant engages in pain medication seeking behavior.” (Tr. 23).

The ALJ explained that Plaintiff’s own assessments of daily activities indicate that Plaintiff participates in significant daily activities. He notes specific examples from the medical records where Plaintiff claimed to be totally disabled from performing vigorous activities and yet

reported that his pain was averaging as a four on a scale of one to ten. Also, the ALJ cites examples where the Plaintiff reported that his medications were working very well and that he at times felt better than he had in many years.

It is clear that the ALJ cites enough specific examples from Plaintiff's own record to question Plaintiff's credibility. This credibility issue is clearly one of the ALJ's main foundations in rejecting benefits to Plaintiff, and it is clearly stated in the ALJ's opinion.

IV. CONCLUSION

The court finds that the Commissioner's decision is supported by substantial evidence of record and is not the result of any legal error which has been brought to the court's attention. Therefore, based on the foregoing reasons as well as the Commissioner's opposing memorandum in general, Plaintiff's complaint is DISMISSED and the Commissioner's decision to deny Plaintiff's claim of disability insurance benefits is AFFIRMED.

SO ORDERED.

DATED this 22nd day of June, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "David Sam", written over a horizontal line.

DAVID SAM
SENIOR JUDGE
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

JOHNNY MARTINEZ,)	
)	
Plaintiff,	)	Case No. 2:05-CV-918 DS
)	
v.	)	District Judge David Sam
)	
MEL MILLER et al.,	)	O R D E R
)	
Defendants.	)	Magistrate Judge Paul Warner

Plaintiff, Johnny Martinez, has filed a *pro se* prisoner civil rights complaint. See 42 U.S.C.S. § 1983 (2006). Plaintiff's application to proceed *in forma pauperis* has been granted. Plaintiff now moves for appointed counsel and service of process.

The Court first considers the motion for appointed counsel. Plaintiff has no constitutional right to counsel. See *Carper v. Deland*, 54 F.3d 613, 616 (10th Cir. 1995); *Bee v. Utah State Prison*, 823 F.2d 397, 399 (10th Cir. 1987). However, the Court may in its discretion appoint counsel for indigent inmates. See 28 U.S.C.S. § 1915(e)(1) (2006); *Carper*, 54 F.3d at 617; *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991). "The burden is upon the applicant to convince the court that there is sufficient merit to his claim to warrant the appointment of counsel." *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985).

When deciding whether to appoint counsel, the district court should consider a variety of factors, "including 'the merits of

the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims.'" *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (quoting *Williams*, 926 F.2d at 996); accord *McCarthy*, 753 F.2d at 838-39.

Considering the above factors, the Court concludes here that (1) it is not clear at this point that Plaintiff has asserted a colorable claim; (2) the issues in this case are not complex; and (3) Plaintiff is not incapacitated or unable to adequately function in pursuing this matter. Thus, the Court denies for now Plaintiff's motion for appointed counsel.

The Court next denies Plaintiff's motions for service of process. These motions are unnecessary because Plaintiff is proceeding *in forma pauperis*. See 28 U.S.C.S. § 1915 (2006). In such cases, "[t]he officers of the court shall issue and serve all process, and perform all duties in such cases." See *id.* § 1915(d). The Court will screen Plaintiff's amended complaint at its earliest convenience and determine whether to dismiss it or order it to be served upon Defendants. See *id.* § 1915A. Plaintiff need do nothing to trigger this process.

IT IS HEREBY ORDERED that:

(1) Plaintiff's request for appointed counsel is denied, see File Entry # 5; however, if, after the case is screened, it appears that counsel may be needed or of specific help, the Court

will ask an attorney to appear pro bono on Plaintiff's behalf.

(2) Plaintiff's motions for service of process are denied, see File Entry #s 4 & 14; however, if, after the case is screened, it appears that this case has merit and states a claim upon which relief may be granted, the Court will order service of process.

DATED this 10th day of August, 2006.

BY THE COURT:

A handwritten signature in cursive script, reading "Paul M. Warner".

PAUL WARNER
United States Magistrate Judge

STEPHEN R. MCCAUGHEY - 2149
Attorney for Defendant
10 West Broadway, Suite 650
Salt Lake City, Utah 84101
Telephone: (801) 364-6474
Facsimile: (801) 364-5014

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH
AUG 16 2006
BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL JOHN QUICK,

Defendant.

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:

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:

:

FINDINGS AND ORDER

Case No. 2:05-CR-002 DB

Judge Dee Benson

Based on motion of the defendant and stipulation of the plaintiff, the court enters the following;

FINDINGS

1. If defendant's motion to continue were denied it would deny the defendant continuity of counsel.
2. Counsel needs additional time to effectively prepare for trial and consult with the defendant.
3. Counsel has exercised due diligence in preparing this case.
4. The ends of justice in granting a continuance outweigh the best interests of the public and the defendant in a speedy trial.

ORDER

It is hereby ORDERED that the trial date of August 14, 2006, be stricken and the trial continued.

It is further, ORDERED that the time between August 14, 2006, and the next trial date be excluded from the computation for the time for trial as described in 18 U.S.C. §3161.

DATED this 5 day of August, 2006.



DEE BENSON
United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of August, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Karin Fojtik (E-Filer)
karin.fojtik@usdoj.gov janet.larson@usdoj.gov

/s/ Brittany Bagley

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AARON ANTHONY HEATON,

Defendant.

:
:
:
:
:
:
:

ORDER TO CONTINUE JURY
TRIAL

[Case No. 2:06CR 14](#) PGC
Hon. Paul Cassell

This matter is currently set for a status hearing on August 7, 2006, at 2:00 p.m. Aaron Heaton is represented by David Leavitt and the United States is represented by Karin Fojtik.

IT IS FURTHER ORDERED: because of the complexity of this matter, the ongoing discussions, the need for defense counsel to further prepare this matter, and based on the motion to continue filed in this matter, and the stipulation to this continuance by defense counsel, the time between July 7, 2006, and the new status conference set for 08/30/2006 at 2:30 pm is excluded from the calculation under

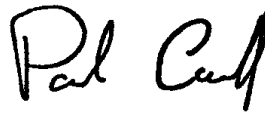
the Speedy Trial Act in order to grant defense counsel and the government sufficient time to prepare for trial. The Court finds that such a continuance is required for effective preparation for trial taking into account the exercise of due diligence. The court further finds that this additional time outweighs the best interest of the public and the defendant in a speedy trial pursuant to [18 U.S.C. § 3161\(h\)\(8\)\(A\)](#).

The Court further finds that 59 days have expired on the trial clock in this matter.

The Court sets a new Plea Cut-off date of 08/30/2006 .

DATED this 15th day of August, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Paul Cassell". The signature is written in a cursive, flowing style.

HON. PAUL G. CASSELL
U.S. DISTRICT COURT JUDGE


D. GILBERT ATHAY (0143)
43 East 400 South
Salt Lake City, Utah 84111
(801) 363-7074
Attorney for Sharif Omar

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	ORDER OF CONTINUANCE
Plaintiff,	:	
v.	:	
SHARIF OMAR,	:	Case No. 2:06CR00093
Defendant.	:	JUDGE DALE A. KIMBALL

Based upon the motion of the defendant, and finding good cause, the court grants the defendant's motion to continue. The court finds that the ends of justice served by granting this continuance outweigh the best interest of the public and defendant in a speedy trial. 18 U.S.C. § 3161(8)(A). Moreover, the court finds that the defendant's request for additional time is reasonable and justifies his motion for a continuance. The time period of the continuance shall be excluded in computing the time under the Speedy Trial Act. 18 U.S.C. § 3161.

Dated this 16th day of August, 2006.



THE HONORABLE DALE A. KIMBALL
UNITED STATES DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Robert C. Lunnen
Assistant United States Attorney
185 South State Street, Suite 400
Salt Lake City, Utah 84111

/s/ Heather M. Stokes

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 14 2006

MARKUS B. ZIMMER, CLERK
BY DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID J. D'ADDABBO,

Defendant.

ORDER OF RELEASE

Case No. 2:06CR147 DB

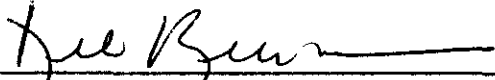
Honorable Dee Benson

This matter came before the Court on August 14, 2006, for sentencing. Defendant was present with counsel, Robert K. Hunt and Robert L. Steele. The United States was represented by Robert C. Lunnen. The Court imposed a sentence and ordered that Defendant be released from custody with credit for time served. Robert C. Lunnen, Assistant United States Attorney, concurs with the form of this Order. Accordingly;

IT IS HEREBY ORDERED that Defendant be released from the custody of the United States Marshal immediately.

SIGNED BY MY HAND this 14th day of August, 2006.

BY THE COURT:


HONORABLE DEE BENSON
United States District Court Judge

Counsel Submitting and Utah State Bar Number Gerald B. Netzky- #7949
Attorney for Defendant
Address 720 S. Seventh Street, Third Floor
Telephone 702-385-9595

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

**FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH**
AUG 16 2006
MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

UNITED STATES OF AMERICA

vs.

JESSICA ROBINSON

*
*
*
*
*
*
*

Case Number 2:06 CR 00149 DB

**ORDER CONTINUING
TRIAL AND EXTENDING
DEADLINE FOR FILING
OF PRE-TRIAL MOTIONS**

FINDING OF FACT

Based on the pending Stipulations of the partes, and good cause appearing therefor, the Court finds that:

1. Denial of this request for continuance would deny the parties herein sufficient time and the opportunity within which to continue with plea negotiations and also to be able to effectively and thoroughly prepare for trial in this case, taking into account the exercise of due diligence.
2. Defendant requires additional time to prepare for trial, as she is pregnant with child and is due to give birth at or near the time of this filing. Defendant will need time to care for the newborn as well as time to recover from childbirth in order to adequately assist her counsel in preparing for trial.
3. Counsel for the Defendant has spoken to the Defendant and the Defendant has no objection to this continuance.

CONCLUSIONS OF LAW

1. Denial of this request for continuance would result in a miscarriage of justice.
2. For all the above-stated reasons, the ends of justice would be best served by an extension of the deadline for filing pretrial motions and a continuance of the trial date.
3. The additional time requested by this stipulation, is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), considering the factors under 18 U.S.C. § 3161 (h)(8)(B)(I) and (iv).

ORDER

IT IS ORDERED that the deadline for Pre-Trial Motions, the Calendar Call and the August 21, 2006 Trial date be continued.

IT IS FURTHER ORDERED that the deadline for Pre-Trial Motions be continued to the 16 day of October, 2006; with responses from the Government being due on the 27 day of October, 2006; and reply briefs by the Defendant being due on the 3 day of November, 2006..

IT IS FURTHER ORDERED that calendar call in this matter be scheduled for the day of , 2006, at am/pm.

IT IS FURTHER ORDERED that the trial date in this matter be scheduled for the 13 day of Nov, 2006, at 8:30 am pm.

DATED this 15 day of Aug, 2006.

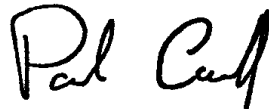

UNITED STATES DISTRICT COURT JUDGE

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	2:06cr00217 PGC
Plaintiff,	:	
vs.	:	ORDER GRANTING MOTION FOR CONTINUANCE
DAVID JOSEPH BREINHOLT,	:	
Defendant.	:	

Based upon the motion of the United States of America, and for good cause appearing, the Court hereby grants Government's Motion to Continue the Sentencing in the above referenced case, currently scheduled for September 11, until October 30, 2006, at 1:30 p.m., 2006.

DATED this 15th day of August, 2006.



PAUL G. CASSELL
United States District Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUAN CARLOS CASTRO-RAMIREZ aka
JUAN RAMIREZ-CASTRO aka JUAN
CASTRO-RAMIERZ aka GIRMO
ARIZAGA,

Defendant.

ORDER OF CONTINUANCE

Case No. 2:06CR279 PGC

Honorable Paul G. Cassell


Based upon the stipulation of counsel, and with good cause appearing therefore;

IT IS HEREBY ORDERED that the change of plea hearing previously scheduled for August 10, 2006, in the above-entitled matter is continued to the **24th day of August, 2006, at 10:30 a.m.**

Pursuant to [18 U.S.C. § 3161\(h\)](#), the Court finds the ends of justice served by such a continuance outweigh the best interests of the public and the defendant to a speedy trial. Accordingly, the time between August 10, 2006, and August 24, 2006, shall be excluded for purposes of speedy trial calculation.

SIGNED BY MY HAND this 15th day of August, 2006.

BY THE COURT:



HONORABLE PAUL G. CASSELL
United States District Court Judge

ROBERT BREEZE #4278
Attorney for Defendant
402 East 900 South
Salt Lake City, Utah 84111
Telephone: (801) 322-2138
Facsimile: (801) 328-2554
E-mail: rbreeze@lgcy.com.

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 16 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH,

CENTRAL DIVISION

UNITED STATES,	)	CASE No: 06 CR 335 DS
)	
Plaintiff,)	
v.	)	ORDER FOR EXTENDING
	)	MOTION CUTOFF DEADLINE
ROMAN JACKLIN,	)	BY ONE WEEK
)	
Defendant.)	
_____	)	Honorable Judge David Sam

BASED UPON the motion of defendant and good cause appearing
therefore it is hereby ordered that the motion cutoff date is extended
until the 17 day of August, 2006.



Honorable David Sam

MINUTES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

JUDGE: Hon. J. Thomas Greene

COURT REPORTER: Mindi Powers

COURTROOM DEPUTY: Michael R. Weiler

INTERPRETER: Mayra J. Villamar

CASE NO. 6-CR-357 JTG

USA v. Jose Alfredo Maciel-Muniz

Approved By: 

APPEARANCE OF COUNSEL

Pla Lynda Rolston Krause, AUSA
Dft Carlos A. Garcia, FPD
USPO Mary Schumann

DATE: August 14, 2006, 10:10 AM

MATTER SET: Change of Plea

(33 mins)

DOCKET ENTRY:

Dft pres & in custody. Interpreter previously sworn. Dft sworn & testifies. Rights, max/min penalties explained. Stmt in Adv of POG signed & filed with the Crt. Ctn 1 of the Indictment read. Dft pleads guilty to Ctn 1 of the Indictment. Crt finds that there is a factual basis for the charge & that the plea is freely & voluntarily given. Crt adjudges the dft guilty & orders presentence report. Crt schedules:

- Sentencing set 10/23/2006, at 10:00 AM.

Dft remanded to custody of USMS.

MINUTES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

JUDGE: Hon. J. Thomas Greene

COURT REPORTER: Mindi Powers

COURTROOM DEPUTY: Michael R. Weiler

INTERPRETER: Myra J. Villamar

CASE NO. 6-CR-419 JTG

USA v. Arturo Cazares-Soto

Approved By: 

APPEARANCE OF COUNSEL

Pla Lynda Rolston Krause, AUSA
Dft Robert K. Hunt, FPD
USPO None

DATE: August 14, 2006, 11:30 AM

MATTER SET: Change of Plea

(34 mins)

DOCKET ENTRY:

Dft pres & in custody. Dft sworn & testifies. Rights, max/min penalties explained. Stmt in Adv of POG signed & filed with the Crt. Ctn 1 of the Indictment read. Dft pleads guilty to Ctn 1 of the Indictment. Crt finds that there is a factual basis for the charge & that the plea is freely & voluntarily given. Crt adjudges the dft guilty & orders presentence report. Crt schedules:

- Sentencing set 10/23/2006, at 10:30 AM.

Dft remanded to custody of USMS.

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

Edwin S. Wall, A7446
WALL LAW OFFICES

8 East Broadway, Ste. 500
Salt Lake City, Utah 84111

Telephone: (801) 523-3445

Facsimile: (801) 746-5613

Electronic Notice: wallsec@xmission.com

AUG 15 2006

MARKUS B. ZIMMER, CLERK

DEPUTY CLERK

RECEIVED

AUG 14 2006

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

OFFICE OF
JUDGE TENA CAMPBELL

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESSE KAVALAUSKAS, JACOB BAILEY
and JODY KAVALAUSKAS,
[JACOB BAILEY]

Defendant.

)
) ORDER GRANTING
) MOTION TO EXTEND TIME
) FOR GOVERNMENT TO FILE
) RESPONSIVE MEMORANDA
) TO ACCOMMODATE PLEA
) NEGOTIATIONS

) Case No. 2:06-CR-452 TC

) Hon. Tena Campbell
)


THIS MATTER having come before the Court on the Defendant's, Jacob Bailey's, *Motion to Extend Time for Government to File Responsive Memoranda to Accommodate Plea Negotiations*, the Court having reviewed the pleadings, having found good cause and being thus informed; now therefore,

IT IS ORDERED that the deadline for the Government's response to the Defendant's pleadings be, and hereby is, extended to September 20, 2006.

IT IS FURTHER ORDERED that the time allowed for further negotiations and extending the Government's time to respond to pleading be, and hereby is, excluded for purposes of speedy trial pursuant to 18 U.S.C. § 3161(h)(8)(A) & (B).

DONE in Chambers this 15 day of Aug, 2006.

BY THE COURT:


Judge

RONALD FUJINO # 5387
Attorney for Defendant
356 East 900 South
Salt Lake City, Utah 84111
Telephone: (801) 268-6735
Fax: (801) 579-0606
counsel356@msn.com

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH
AUG 16 2006
BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TEODORO GUITIERREZ-OCHOA,

Defendant.

Case No. 2:06CR00459 DB

**ORDER GRANTING EXTENSION
OF DEADLINES**

Judge Dee Benson

Based upon Motion of the Defendant, Stipulation by the Government, and Good Cause appearing, the Court hereby ORDERS reset the following deadlines:

Motion Deadline: 11/6/2006

Plea Deadline: 11/27/2006

Voir Dire, Jury Instructions, Subpoenas, and Exhibits Deadline:

11/30/06

Jury Trial Dates: 12/4/06

The Court finds that the best interest of the public and the defendant dictate the continuance, and therefore this time shall be excluded from the time allowed for the trial under the Speedy Trial Act, 18 U.S.C. § 3161.

ORDERED BY THE COURT

Dated this 15 day of August, 2006.

A handwritten signature in black ink, reading "Dee Benson". The signature is written in a cursive, flowing style. The first name "Dee" is written with a large, stylized 'D' that loops around the first few letters. The last name "Benson" is written in a more standard cursive script.

U.S. DISTRICT COURT JUDGE
THE HONORABLE DEE BENSON

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

HERBERT EDWARD MUMPOWER,

Defendant.

ORDER TO CONTINUE TRIAL

Case No. 2:06-cr-00465 PGC

Based upon the motion of the Defendant, Herbert Edward Mumpower, through his attorney of record, Robert L. Steele, the Court hereby STRIKES the trial currently set for September 11, 2006, in the above-entitled matter

IT IS FURTHER ORDERED, because the parties need to further prepare this matter, that the time between September 11, 2006 and a status hearing set for 12/15/2006 is excluded from calculation under the Speedy Trial Act, 18 U.S.C. § 3161 (h)(8)(A), in order to grant defense counsel and the Government sufficient time to prepare for trial. The Court finds that such a continuance is required for effective preparation for trial, taking into account the exercise of due diligence. The Court further finds that this additional time outweighs the best interest of the public and the Defendant in a speedy trial.

The Court sets a status conference for 12/15/2006 at 1:30 p.m.

SIGNED BY MY HAND this 15th day of August, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Paul Cassell". The signature is written in a cursive, somewhat stylized font. The "P" is large and loops around the "a", and the "C" is also large and loops around the "a". The "s" is written with a series of loops, and the "e" is a simple loop. The "l" is a simple vertical stroke.

HONORABLE PAUL G. CASSELL
United States District Court Judge

RONALD FUJINO # 5387
Attorney for Defendant
356 East 900 South
Salt Lake City, Utah 84111
Telephone: (801) 268-6735
Fax: (801) 579-0606
counsel356@msn.com

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RODNEY LITI,

Defendant.

Case No. 2:06-CR-00487 PGC

**ORDER GRANTING EXTENSION
OF DEADLINES**

Judge Paul G. Cassell

Based upon Motion of the Defendant, Stipulation by the Government, and Good Cause appearing, the Court hereby ORDERS reset the following deadlines:

Motion Deadline: 08/28/2006

Plea Deadline: 09/05/2006

Voir Dire, Jury Instructions, Subpoenas, and Exhibits Deadline:

n/a

Status/Change of Plea set for 09/06/2006 at 1:30 p.m. The trial date of September 11, 2006 is STRICKEN.

The Court finds that the best interest of the public and the defendant dictate the

continuance, and therefore this time shall be excluded from the time allowed for the trial under the Speedy Trial Act, [18 U.S.C. § 3161](#).

ORDERED BY THE COURT

Dated this 15th day of August, 2006.

A handwritten signature in black ink, appearing to read "Paul Cassell", is written over a horizontal line.

U.S. DISTRICT COURT JUDGE
THE HONORABLE PAUL G. CASSELL

United States District Court

CENTRAL DISTRICT OF UTAH

UNITED STATES OF AMERICA
v.

**ORDER SETTING
CONDITIONS OF RELEASE**

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH
AUG 16 2006
BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

DESEREE DYER

Case Number: 2:06-CR-515 PGC

IT IS SO ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local or tribal law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U.S. attorney in writing of any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed

as directed. The defendant shall next appear at (if blank, to be notified)

United States District Court

PLACE

350 South Main

on

As Directed

DATE AND TIME

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- () (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of

_____ dollars (\$) _____

in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.


If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both.
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.


Signature of Defendant


6959 Prairie Dunes Dr #116D
Address

West Jordan UT 84081 282-3500
City and State Telephone

Directions to the United States Marshal

- (X) The defendant is ORDERED released after processing.
The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: 8/16/06


Signature of Judicial Officer

Chief Magistrate Judge Samuel Alba

Name and Title of Judicial Officer

United States District Court

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

CENTRAL DISTRICT OF UTAH

AUG 16 2006

MARKUS B. ZIMMER, CLERK
BY

UNITED STATES OF AMERICA

V.

**ORDER SETTING
CONDITIONS OF RELEASE**

SEAN TOWN

Case Number: 2:06-CR-555 JTG

IT IS SO ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local or tribal law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U.S. attorney in writing of any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed

as directed. The defendant shall next appear at (if blank, to be notified)

United States District Court

PLACE

350 South Main

on

as directed

DATE AND TIME

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- () (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of

dollars (\$)

in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both.
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in additions to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.



Signature of Defendant


3331 Bloomington Dr West
Address

(US)

St. George UT 84790 634-0869
City and State Telephone**Directions to the United States Marshal**

- (X) The defendant is ORDERED released after processing.
The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: 8/16/06



Signature of Judicial Officer

Chief Magistrate Judge Samuel Alba

Name and Title of Judicial Officer

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION**

UNITED STATES OF AMERICA

Plaintiff(s),

vs.

Sandra Price

Defendant(s).

Case No. 2:06-CR-562 TC

ORDER APPOINTING COUNSEL

The defendant, **Sandra Price** requested the appointment of counsel on **8/16/06**, and at that time the court determined the defendant qualified for the appointment of counsel under 18 USC § 3006A.

Therefore,

IT IS HEREBY ORDERED the Federal Public Defender, for the District of Utah, is appointed to represent the above named defendant in this matter.

DATED this 16th day of August, 2006.

BY THE COURT:



Samuel Alba
Chief Magistrate Judge

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

JOSEPH R. LONG,

Plaintiff,

vs.

JO ANNE B. BARNHART,
Commissioner of the Social
Security Administration

Defendant.

REVISED SCHEDULING ORDER

Civil No. 2:06CV 00134DAK

Judge Dale A. Kimball

The court revises the scheduling order in the above captioned case as follows:

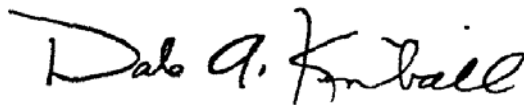
1. Plaintiff's motion for review of the Commissioner's decision and accompanying memorandum should be filed by August 14, 2006.

2. Defendant's memorandum in opposition should be filed by September 11, 2006.

3. Plaintiff may file a reply memorandum by September 25, 2006.

DATED this 15th day of August, 2006.

BY THE COURT

A handwritten signature in black ink that reads "Dale A. Kimball". The signature is written in a cursive, flowing style.

Honorable Dale A. Kimball

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

IN RE NATURE'S SUNSHINE
PRODUCTS, INC. SECURITIES
LITIGATION

MEMORANDUM DECISION AND
ORDER APPOINTING LEAD
PLAINTIFFS, AND APPROVING
LEAD PLAINTIFF'S SELECTION OF
COUNSEL

Case No. Case No. 2:06-CV-267 TS

This matter comes before the Court on various motions to appoint a lead plaintiff and counsel in this consolidated class action securities litigation case. The four plaintiffs with motions, along with their corresponding counsel are: (1) Garth Iorg and counsel Schiffrin & Barroway LLP;¹ (2) Toshihiko Sanada and counsels Cohen, Milstein, Hausfeld & Toll P.L.L.C. and Howard, Phillips & Andersen, P.C.;² (3) Dr. Jan Wade Gilbert and counsel Climaco,

¹Docket No. 23.

²Docket No. 15.

Lefkowitz, Peca, Wilcox & Garofoli Co., LPA;³ and (4) the Crosetto Group and counsel The Rosen Law Firm P.A.⁴ Each Plaintiff has submitted a Motion for Appointment as Lead Plaintiff and to Approve Proposed Plaintiff's Choice of Counsel. Hearing on the motions was held August 15, 2006. All Plaintiffs, with the exception of Plaintiff Iorg, attended. For the below reasons, the Crosetto Group's motion is granted, and the remaining plaintiffs' motions are denied.

The Private Securities Litigation Reform Act of 1995 (PSLRA) directs courts to consider any motion to serve as lead plaintiff filed by class members in response to a published notice of class action by the later of (i) 60 days after the date of publication, or (ii) as soon as practicable after the Court decides any pending motion to consolidate.⁵ The PSLRA provides a rebuttable presumption that the most adequate plaintiff to serve as lead plaintiff is the person or group of persons that:

(aa) has either filed the complaint or made a motion in response to a notice . . .

(bb) in the determination of the Court, has the largest financial interest in the relief sought by the class; and

(cc) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.⁶

The declaration of counsel submitted to the Court, along with oral argument, convinces the Court that the Crosetto Group, consisting of Fred Crosetto, Lee Tiah Hong (Jane), and Loh

³Docket No. 56.

⁴Docket No. 18.

⁵15 U.S.C. § 78u-4(a)(3)(B)(i)-(ii).

⁶*Id.* § 78u-4(a)(3)(B)(iii). *See also Meyer v. Paradigm Med. Indust.*, 225 F.R.D. 678, 680 (D. Utah 2004).

Chee Kuang, has suffered the largest monetary loss of all the proposed lead plaintiffs before the Court, and has otherwise made the proper filings and met the requirements of Rule 23, and is therefore the most adequate lead plaintiff in accordance with Section 27(a)(3)(B) of the Securities Act of 1934, 15 U.S.C. § 77z-1(a)(3)(B).

In connection with its finding that the Crosetto Group has suffered the largest financial loss, this Court finds that aggregation of the individual members' losses within the group is appropriate. In *Meyer v. Paradigm Med. Indust.*, some unrelated parties' attempt to aggregate "on the eve" of hearing was rejected by the court when the parties had demonstrated "no real indications of cooperation such as conference calls or shared strategies about how to pursue the litigation."⁷ On the other hand, the aggregation of other unrelated parties was allowed because they had "sought to work together and pursue the litigation as a team long before the hearing date."⁸

It is clear in this case that the Crosetto Group, although comprised of unrelated members, did not combine at the last minute, but rather, have been together long before the hearing date. The members of the group have also submitted affidavits demonstrating the cooperative intentions and efforts of the group.⁹ The Court therefore finds that the group was properly formed and that aggregation in this case is appropriate. Through aggregation, the Crosetto Group clearly has the largest financial interest as compared to the losses of the other Plaintiffs, and by also meeting the other requirements, becomes the presumptive most adequate lead plaintiff.

⁷*Meyer*, 25 F.R.D. at 683.

⁸*Id.*

⁹Docket No. 34, Exhibit A.

This Court also finds that the presumption in favor of the Crosetto Group has not convincingly been rebutted. “Th[e] presumption ‘may be rebutted only upon proof . . . that the presumptively most adequate plaintiff–(aa) will not fairly and adequately protect the interests of the class; or (bb) is subject to unique defenses that render such plaintiff incapable of adequately representing the class. . . .’”¹⁰ As to adequacy, “[t]he PSLRA directs courts to limit [their] inquiry . . . to the existence of any conflicts between the interests of the proposed lead plaintiffs and the members of the class” using a two-step analysis.¹¹ “First, there must be an absence of potential conflict between the named plaintiffs and other class members. Second, the counsel chosen by the representative party must be ‘qualified, experienced and able to vigorously conduct the proposed litigation.’”¹²

This Court finds that there are no conflicts between the Crosetto Group and other class members that preclude a finding of adequacy, and that the Crosetto Group’s chosen counsel, the Rosen Law Firm as lead counsel, and Hatch James & Dodge as liaison counsel, are qualified, experienced and able to vigorously conduct the proposed litigation. This Court further finds that the Crosetto group is not subject to any unique defenses.

¹⁰*Meyer*, 225 F.R.D. at 680 (quoting 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I)-(II) and *In re Advanced Tissue Sciences Sec. Litig.*, 184 F.R.D. 346, 350 (S.D. Cal. 1998)).

¹¹*Meyer*, 225 F.R.D. at 681 (citing *In re Ribozyme Pharmaceuticals Sec. Litig.*, 192 F.R.D. 656, 659 (D. Colo. 2000)).

¹²*Id.*

The Court, having considered the various motions by plaintiffs for appointment, and for approval of lead plaintiff's selection of lead counsel, the memoranda of law and declarations submitted in support and opposition thereof, along with oral argument, hereby orders as follows:

1. Pursuant to Section 21D(a)(3)(B) of the 1934 Act, 15 U.S.C. § 77z-1(a)(3)(B), the Crosetto Group, consisting of Fred Crosetto; Lee Tiah Hong, Jane; and Loh Chee Kuang are appointed lead plaintiffs for the class.

2. Lead plaintiffs' selection of counsel is approved pursuant to Section 21D(a)(3)(B)(v) of the 1934 Act, 15 U.S.C. § 77-1(a)(3)(B)(v), the Rosen Law Firm P.A. is appointed as lead counsel, and Hatch James & Dodge is appointed as liaison counsel for the proposed class in the consolidated action.

3. The motions of Plaintiffs Garth Iorg, Jan Wade Gilbert, and Toshihiko Sanada are denied.

DATED August 16, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Ted Stewart", is written over a horizontal line.

TED STEWART
United States District Judge

AUG 16 2006

THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

MARKUS B. ZIMMER, CLERK

CENTRAL DIVISION

DEPUTY CLERK

* * * * *

CHET G. CHRISTOFFERSON,) Case No.2:06CV00295 DS

Plaintiff,)

vs.)

SCHEDULING
O R D E R

SNAKE RIVER HOLDING CO., et al.,)

Defendants.)

* * * * *


Pursuant to Fed. R. Civ. P. 16(b), the Attorneys' Planning Meeting Report filed by counsel, and good cause appearing,

IT IS HEREBY ORDERED:

The times and deadlines, set forth in the Attorneys' Planning Meeting Report filed with the court are adopted by the court and incorporated herein by reference. A final pretrial conference will be held October 9, 2007 at 2:00 p.m. A 4 day Jury Trial will be held beginning October 23, 2007 at 8:30 a.m.

DATED this 16th day of August, 2006.

BY THE COURT:



DAVID SAM
SENIOR JUDGE
UNITED STATES DISTRICT COURT

STEPHEN W. OWENS - #6957
EPPERSON & RENCHER
Attorneys for Plaintiff
10 West 100 South, Suite 500
Salt Lake City, Utah 84101
(801) 983-9800
Fax: 983-9808

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

CHET G. CHRISTOFFERSON,)	
)	
Plaintiff,	)	ATTORNEYS' PLANNING
	)	MEETING REPORT
v.)	
)	
SNAKE RIVER HOLDING COMPANY,	)	Civil No. 2:06cv00295 DS
L.L.C. and SOUTH FORK PROPERTIES,	)	Judge David Sam
LLC, dba SOUTH FORK LODGE, an Idaho)	
Corporation, and Doe Defendants 1-5,)	
)	
Defendants.)	

The parties jointly propose and stipulate to the following discovery plan:

1. PRELIMINARY MATTERS:

a. The nature of the claim is asserted negligence, and breach of contract by a landlord against its tenant causing injury and damage to the tenant.

b. This case is _____not referred to a magistrate judge
_____referred to magistrate judge *name of magistrate judge*
_____under 636(b)(1)(A)

_____ under 636(b)(1)(B)

c. Pursuant to Fed. R.Civ.P. 26(f), a meeting was held on July 28, 2006 at 1:00 p.m. The following were in attendance: Stephen W. Owens, counsel for Chet G. Christofferson ("Plaintiff") and Scott A. DuBois, counsel for Snake River Holding Company, L.L.C., and South Fork Lodge Properties, L.L.C. dba South Fork Lodge ("Defendants"). The parties have discussed the nature and basis of their claims and defenses.

d. The parties do not request an initial pretrial scheduling conference with the court prior to entry of the scheduling order.

e. The parties will exchange by August 28, 2006 the initial disclosures required by Rule 26(a)(1).

2. ELECTRONIC SERVICE:

Pursuant to Fed. R. Civ. P. 5(b)(2)(D), the parties agree to receive all items required to be served under Fed.R.Civ.P. 5(a) by either (i) notice of electronic filing, or (ii) e-mail transmission. Such electronic service will constitute service and notice of entry as required by those rules. Any right to service by USPS mail is waived.

3. DISCOVERY PLAN:

The parties jointly propose to the court the following discovery plan:

- a. Discovery is necessary on all issues of liability and damages.
- b. Discovery in this case will be limited to the following:
 - i. Twenty-five (25) interrogatories for each party;
 - ii. Ten (10) depositions per party (not to exceed 7 hours each).
 - iii. Twenty-five (25) requests for admissions by each party;

- iv. Twenty-five (25) requests to produce documents;
- v. Independent medical examination of Mr. Christofferson;
- vi. Inspection, photography, and videotaping of any physical evidence, including of the apartment and drain at issue.

4. AMENDMENT OF PLEADINGS AND ADDITION OF PARTIES:

Joinder of parties and amendments to pleadings shall be completed by December 30, 2006.

(NOTE: Establishing cutoff dates for filing motions does not relieve counsel from the requirements of Fed.R.Civ.P. 15(a)).

5. EXPERT DESIGNATIONS:

- a. Plaintiff's expert designations will be submitted by April 1, 2007.
- b. Defendants' expert designations will be submitted by May 15, 2007.
- c. Plaintiff's retained rebuttal experts will be submitted no later than June 15, 2007.
- d. The cut off date for expert discovery is September 1, 2007.

6. EXPERT REPORTS: Expert reports are hereby waived.

7. OTHER DEADLINES:

- a. Fact Witnesses/Discovery cutoff: March 1, 2007.
- b. Deadline for filing dispositive or potentially dispositive motions and Daubert motions is October 1, 2007.

8. ADR/SETTLEMENT:

- a. The potential for resolution before trial is fair.

- b. The case should be re-evaluated for settlement/ADR resolution on: May 1, 2007.

9. TRIAL AND PREPARATION FOR TRIAL:

- a. The parties should have 14 days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).
- b. This case should be ready for jury trial and a certificate for readiness for trial shall be filed by either party by October 1, 2007.
- c. The estimated length of the jury trial will last four (4) days.

EPPERSON & RENCHER, P.C.

SNELL & WILMER, L.L.P.

/s/ Stephen W. Owens

*(Signed copy is being maintained in the office of
Stephen W. Owens)*

Stephen W. Owens
Attorneys for Plaintiff

Date: 8/14/06

/s/ Scott A. DuBois

(Signed copy is being maintained in the office of Stephen W. Owens)

Scott A. DuBois
Emily V. Smith
Attorneys for Defendants

Date: 8/10/06

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 16 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

MARY C. CORPORON #734
Attorney for Plaintiffs
CORPORON, WILLIAMS & BRADFORD, P.C.
405 South Main Street, Suite #700
Salt Lake City, Utah 84111
Telephone: (801) 328-1162
Facsimile: (801) 328-9565

IN THE UNITED STATES DISTRICT COURT,
DISTRICT OF UTAH, CENTRAL DIVISION

LINDA AND JAMES MOONEY,

Plaintiffs,

-vs-

UNITED STATES OF AMERICA, THE
STATE OF UTAH and UTAH
COUNTY,

Defendants.

: **ORDER GRANTING ENLARGEMENT OF**
: **TIME TO RESPOND TO DEFENDANTS'**
: **MOTIONS TO DISMISS**
:
:
:

:
:
: Case No. 2:06 CV 402 DS
:
: Judge David Sam

Based on Plaintiffs' Motion for Enlargement of Time to Respond to Defendants' Motions
to Dismiss, and for good cause appearing;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

The Plaintiffs' are granted a 10-day enlargement of time, from August 15, 2006 to August
25, 2006, to respond to the Defendants' Motions to Dismiss filed in the above-entitled action.

DATED this 16th day of August, 2006.

BY THE COURT:

DAVID SAM


United States District Court Judge

AUG 15 2006

RECEIVED CLERK

MARKUS B. ZIMMER, CLERK
BY DEPUTY CLERK

AUG 08 2006

UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

U.S. DISTRICT COURT

UPEK, Inc.

Plaintiff

v.

International Automated
Defendant Systems

ORDER FOR PRO HAC VICE ADMISSION

Case Number 2:06-cv-613 DB

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for the admission pro hac vice of Jeffrey Miller in the United States District Court, District of Utah in the subject case is GRANTED.

Dated: this 14 day of August, 2006

Dee Benson

U.S. District Judge

FEE PAID

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 16 2006

MARKUS B. ZIMMER, CLERK
BY DEPUTY CLERK

Adam S. Affleck, Esq. (5434)
Andrew B. Clawson, Esq. (10409)
PRINCE, YEATES & GELDZAHLER
A Professional Corporation
City Centre I, Suite 900
175 East 400 South
Salt Lake City, UT 84111
Telephone: (801) 524-1000

Attorneys for Kenneth A. Rushton, Chapter 7 Trustee

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

In re

ROBERT C. RICHARDS,

Debtor.

KENNETH A. RUSHTON, Chapter 7
Trustee,

Appellant,

vs.

DAVID RICHARDS,

Appellee.

**EX PARTE ORDER EXTENDING
DEADLINE TO FILE APPELLANT'S
BRIEF**

Case No.
2:06-cv-637 (DAK)

[Filed Electronically]

This matter came before the Court on Appellant's Motion For *Ex Parte* Order Extending Deadline To File Appellant's Brief. Having reviewed the pleadings, and for good cause appearing,

IT IS HEREBY ORDERED that the deadline by which Appellant must file his appellate brief is extended until September 1, 2006.

DATED this 15th day of August, 2006.

U.S. DISTRICT COURT

By: Dale A. Kimball
Honorable Dale A. Kimball
U.S. District Court Judge

END OF DOCUMENT

BRETT L. TOLMAN, United States Attorney (#8821)
JOHN K. MANGUM, Assistant United States Attorney (#2072)
Attorneys for the United States of America
185 South State Street, #400
Salt Lake City, Utah 84111
Telephone: (801) 524-568

RECEIVED

AUG 10 2006

FILED IN UNITED STATES DISTRICT
COURT DISTRICT OF UTAH
OFFICE OF
JUDGE TENA CAMPBELL

AUG 15 2006

MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

JOHN E. FAUSETT, dba JOHN E.
FAUSETT CONSTRUCTION,

Plaintiff,

v.

UNITED STATES, MERLIN MCKEE
and JAMES W. PRESTON dba
UINTAH INDIAN IRRIGATION
PROJECT OPERATION AND
MAINTENANCE COMPANY or dba
UINTAH IRRIGATION PROJECT
OPERATION AND MAINTENANCE
COMPANY, UINTAH COUNTY, and
JOHN DOES 1-5,

Defendants.

Civil No. 2:06cv661 TC

**Order of Substitution of United States
for Defendant McKee as to State Tort
Claims**

Judge Tena Campbell

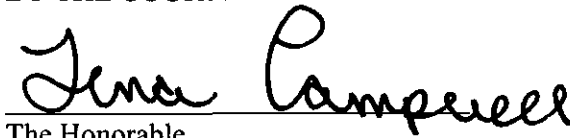
The Court having been fully apprised that the United States Attorney General's designee has certified that the individual defendant, Merlin McKee, was acting within the scope of his employment as a federal government employee at the time of the incidents giving rise to this suit, and the Court having been apprised of the substitution of the United States for Defendant McKee as to the state law tort claims in the Complaint pursuant to the Federal Employees Liability Reform and Tort Compensation Act of 1988 § 6, Pub. L. No. 100-694, 102

Stat. 4563 (1988), 28 U.S.C. § 2679(d)(2), it is hereby ORDERED that the state law tort claims set forth in the Complaint are dismissed with respect to Defendant McKee on the ground that the United States has been substituted as the replacement defendant on those claims.

It is further ORDERED that the caption of this action shall be amended to reflect the substitution of the United States as a defendant.

DATED this 15 day of August, 2006.

BY THE COURT:



The Honorable
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the United States Attorney's Office for the District of Utah, and that a true copy of the foregoing [proposed] Order of Substitution of United States for Defendant McKee as to State Tort Claims was mailed, by United States mail, first class postage prepaid, this 10th day of August, 2006, addressed to counsel as follows:

Evan A. Schmutz
J. Bryan Quisenberry
Hill Johnson & Schmutz
3319 North University Ave.
Jamestown Square, Suite 200
Provo, UT 84604

Mark J. Williams
Brent A. Orozco
Jones Waldo Holbrook & McDonough
170 S. Main St., #1500
Salt Lake City, UT 84101

Frank D. Mylar
6925 Union Park Center, Suite 600
Cottonwood Heights, UT 84047-4141

Edwin T. Peterson
Uintah County Attorney
152 E. 100 N.
Vernal, UT 84078

/s/ JohnK. Mangum

AUG 15 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

United States District Court

Central Division for the District of Utah

MICHAEL SHAWN CASEY

v.

DENNIS SORENSON et al.

ORDER ON APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES

Judge Dale A. Kimball

DECK TYPE: Civil

DATE STAMP: 08/15/2006 @ 13:54:21

CASE NUMBER: 2:06CV00676 DAK

Having considered the application to proceed without prepayment of fees under 28 U.S.C. 1915;

IT IS ORDERED that the application is:

☒ GRANTED.

☒ The clerk is directed to file the complaint.

☐ DENIED, for the following reasons:

ENTER this 15th day of Aug, 20 06.



Signature of Judicial Officer

Samuel Alton
U.S. Magistrate Judge

Name and Title of Judicial Officer

AUG 15 2006

MARKUS B. ZIMMER, CLERK
BY ~~DEPUTY CLERK~~

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

BONNIE HUTCHISON,

Plaintiff,

vs.

BINGHAM COUNTY, a municipal
corporation of the State of Idaho, dba
BINGHAM MEMORIAL HOSPITAL, and
GRANT WALKER, M.D., in his individual
capacity,

Defendants.

ORDER OF REFERENCE

Civil No. 2:06 MC 665 TC

IT IS ORDERED that, as authorized by 28 U.S.C. § 636(b)(1)(A) and the rules of this court, the above entitled case is referred to United States Magistrate Judge Brooke C. Wells. Judge Wells is directed to hear and determine any nondispositive matters pending before the court.

DATED this 15th day of August, 2006.

BY THE COURT:



TENA CAMPBELL
United States District Judge

United States District Court
for the District of Utah

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 15 2006

MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

Request and Order to Amend Previous Petition

Name of Offender: **Jessy Tony Gurule**

Docket Number: **2:97-CR-00220-001-DB**
2:97-CR-00257-001-DB

Name of Sentencing Judicial Officer: **Honorable Dee V. Benson**
Chief United States District Judge

Date of Original Sentence: **April 29, 1999**

Original Offense: **Bank Robbery; Felon in Possession of a Firearm**

Original Sentence: **80 Months BOP Custody/36 Months Supervised Release**

Type of Supervision: **Supervised Release** Supervision Began: **August 31, 2005**

PETITIONING THE COURT

☒ To amend the petition signed on December 8, 2005, as follows:

CAUSE

Allegations on December 8, 2005 petition:

Allegation No. 1: The defendant failed to submit a urine specimen for testing, as directed, by the United States Probation Office on the dates of September 19, October 11, October 25, November 2, November 21, and November 29, 2005.

Allegation No. 2: On October 18, 2005, the defendant admitted to this probation officer that he had relapsed using cocaine.

Allegation No. 3: The defendant failed to attend a scheduled meeting with this probation officer on October 19, 2005.

Allegation No. 4: The defendant failed to attend substance abuse and mental health treatment on October 20, October 24, October 31, and November 14, 2005.

Allegation No. 5: On October 25, 2005, the defendant admitted to this probation officer that he had relapsed on October 21, 2005, using cocaine and methamphetamine.

Allegation No. 6: The defendant submitted urine samples on November 7 and November 11, 2005, which tested positive for cocaine.

Allegation No. 7: The defendant submitted urine samples on November 22 and November 28, 2005, which tested positive for cocaine and methamphetamine.

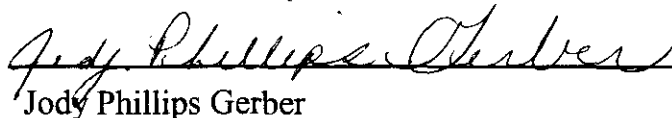
Additional allegations:

Allegation No. 8: On March 13, 2006, the defendant failed to stop at the command of a police officer. Evidence in support of this includes court documents in which the defendant entered a plea of guilty in State court (Case No. 061401081); Fail to Stop/Respond at Command of Police (Third Degree Felony), and an arrest report from the Utah County Major Crimes Task Force (Report No. 06MC00201).

Allegation No. 9: On March 13, 2006, the defendant committed a burglary by entering a dwelling belonging to another person. Evidence in support of this includes court documents in which the defendant entered a plea of guilty in State court (Case No. 061401081); Burglary (Amended Second Degree Felony), and an arrest report from the Utah County Major Crimes Task Force (Report No. 06MC00201).

Allegation No. 10: On March 13, 2006, the defendant tampered with a witness. Evidence in support of this includes court documents in which the defendant entered a plea of guilty in State court (Case No. 061401081); Tamper with a Witness (Third Degree Felony), and an arrest report from the Utah County Major Crimes Task Force (Report No. 06MC00201).

I declare under penalty of perjury that the foregoing is true and correct



Jody Phillips Gerber
U.S. Probation Officer
Date: August 9, 2006

THE COURT ORDERS:

- ☒ That the original petition be amended
to include all allegations outlined
☐ No action
☐ Other



Honorable Dee V. Benson
Chief United States District Judge

Date:

8-15-2006

Rebecca C. Hyde (#6409)
SKORDAS, CASTON & HYDE, LLC
9 Exchange Place, #1104
Salt Lake City, Utah 84111
Telephone: (801) 531-7444
Facsimile: (801) 531-8885

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

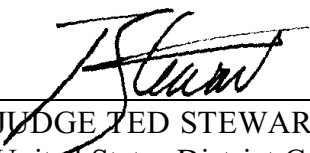
UNITED STATES OF AMERICA	)	ORDER TO SEAL
Plaintiff,)	
vs.)	
LAWRENCE A. KRASNEY,	)	Case No. 2:98cr278
Defendant.	)	Judge Ted Stewart

Based on the Motion to Seal filed by the defendant in the above-entitled case, and good cause appearing,

It is hereby ORDERED that the Court seal the Motion for Downward Departure (document #427), which was filed August 9, 2006.

DATED this 16th day of August, 2006.

BY THE COURT:



JUDGE TED STEWART
United States District Court Judge